

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request of Centennial Communications Corp. for	)	WT Docket No. 05-314
Limited Waiver/Extension of Location-Capable	)	
Handset Penetration Deadline	)	
	)	

**ORDER**

**Adopted: May 4, 2006**

**Released: January 5, 2007**

By the Commission:

**I. INTRODUCTION**

1. In this *Order*, we address a request for relief from the Commission's wireless Enhanced 911 (E911) Phase II requirements filed by Centennial Communications Corp. (Centennial),<sup>1</sup> a Tier II wireless service provider.<sup>2</sup> Specifically, Centennial requests a one-year extension of time to comply with the requirement in Section 20.18(g)(1)(v) of the Commission's Rules that carriers employing a handset-based E911 Phase II location technology must achieve 95% penetration, among their subscribers, of location-capable handsets by December 31, 2005.<sup>3</sup> Centennial's request is limited to its operations in Puerto Rico, where it commits to continue providing E911 Phase II service to its customers, using its current network-based solution, until its proposed compliance deadline.<sup>4</sup>

2. Timely compliance with the Commission's wireless E911 rules ensures that the important public safety needs of wireless callers requiring emergency assistance are met as quickly as possible. In analyzing requests for extensions of the Phase II deadlines pursuant to our waiver authority, the Commission has afforded relief only when the requesting carrier has met the Commission's standard for waiver of the Commission's rules.<sup>5</sup> Where carriers have met the standard, the relief granted has required compliance with the Commission's rules and policies within the shortest practicable time.<sup>6</sup>

<sup>1</sup> Request of Centennial Communications Corp. for Limited Waiver/Extension of Location-Capable Handset Penetration Deadline, WT Docket No. 05-314, filed Nov. 3, 2005 (Centennial Request).

<sup>2</sup> Tier II carriers are Commercial Mobile Radio Service (CMRS) providers that had over 500,000 subscribers as of the end of 2001 but were not designated as nationwide Tier I carriers by the Commission. See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers, CC Docket No. 94-102, *Order to Stay*, 17 FCC Rcd 14841, 14847-48 ¶¶ 22-23 (2002) (*Non-Nationwide Carriers Order*).

<sup>3</sup> See 47 C.F.R. § 20.18(g)(1)(v).

<sup>4</sup> See Centennial Request at 4, 8.

<sup>5</sup> See Wireless E911 Phase II Implementation Plan of Nextel Communications, Inc., CC Docket No. 94-102, *Order*, 16 FCC Rcd 18277, 18281-86 ¶¶ 13-30 (2001); Request for Waiver by Sprint Spectrum L.P. d/b/a Sprint (continued....)

3. Based on the record before us, we find that Centennial has not satisfied the Commission's established criteria for waiver of the 95% handset penetration requirement. Specifically, as explained in more detail below, Centennial has not shown how the duration of its requested extension – twelve months – is consistent with the requirement that carriers come into compliance with the 95% penetration requirement “as soon as possible.” Accordingly we are denying Centennial's waiver request. In light of the particular circumstances faced by Centennial, and the penetration level Centennial reached by December 31, 2005, however, we will not at this time pursue enforcement action as a result of Centennial's non-compliance. Further, we are imposing reporting requirements to enable the Commission to monitor Centennial's efforts to achieve compliance with the handset penetration requirement.

## II. BACKGROUND

### A. Phase II Requirements

4. The Commission's E911 Phase II rules require wireless licensees to provide Public Safety Answering Points (PSAPs) with Automatic Location Identification (ALI) information for 911 calls.<sup>7</sup> Licensees can provide ALI information by deploying location information technology in their networks (a network-based solution),<sup>8</sup> or Global Positioning System (GPS) or other location technology in subscribers' handsets (a handset-based solution).<sup>9</sup> The Commission's rules also establish phased-in schedules for carriers to deploy any necessary network components and begin providing Phase II service.<sup>10</sup> However, before a wireless licensee's obligation to provide E911 service is triggered, a PSAP must make a valid request for E911 service, *i.e.*, the PSAP must be capable of receiving and utilizing the data elements associated with the service and must have a mechanism in place for recovering its costs.<sup>11</sup>

5. In addition to deploying the network facilities necessary to deliver location information, wireless licensees that elect to employ a handset-based solution must meet the handset deployment benchmarks set forth in Section 20.18(g)(1) of the Commission's Rules, independent of any PSAP request

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PCS, CC Docket No. 94-102, *Order*, 16 FCC Rcd 18330, 18335-38 ¶¶ 15-26 (2001); Request for Waiver by Verizon Wireless, CC Docket No. 94-102, *Order*, 16 FCC Rcd 18364, 18369-74 ¶¶ 16-26 (2001); Request for Waiver by AT&T Wireless Services, Inc., CC Docket No. 94-102, *Order*, 16 FCC Rcd 18253, 18257-59 ¶¶ 13-19 (2001); Request for Waiver by Cingular Wireless LLC, CC Docket No. 94-102, *Order*, 16 FCC Rcd 18305, 18308-11 ¶¶ 14-20 (2001); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers, CC Docket No. 94-102, *Order*, 20 FCC Rcd 7709, 7709-10 ¶ 1 (2005) (*Tier III Carriers Order*). Tier III carriers may be entitled to relief pursuant to the Commission's waiver standard or, alternatively, the ENHANCE 911 Act, which directs the Commission to grant waivers for Tier III carriers of the 95% penetration benchmark if “strict enforcement . . . would result in consumers having decreased access to emergency services.” National Telecommunications and Information Administration Organization Act – Amendment, Pub. L. No. 108-494, 118 Stat. 3986 (2004).

<sup>6</sup> See *Tier III Carriers Order*, 20 FCC Rcd at 7709-7710 ¶ 1.

<sup>7</sup> See 47 C.F.R. § 20.18(e).

<sup>8</sup> Network-based location solutions employ equipment and/or software added to wireless carrier networks to calculate and report the location of handsets dialing 911. These solutions do not require changes or special hardware or software in wireless handsets. See 47 C.F.R. § 20.3, *Network-based Location Technology*.

<sup>9</sup> Handset-based location solutions employ special location-determining hardware and/or software in wireless handsets, often in addition to network upgrades, to identify and report the location of handsets calling 911. See 47 C.F.R. § 20.3, *Location-Capable Handsets*.

<sup>10</sup> See 47 C.F.R. § 20.18(f), (g)(2).

<sup>11</sup> See 47 C.F.R. § 20.18(j)(1).

for Phase II service.<sup>12</sup> After ensuring that 100% of all new digital handsets activated are location-capable, licensees must achieve 95% penetration among their subscribers of location-capable handsets no later than December 31, 2005.<sup>13</sup>

## B. Waiver Standards

6. On September 8, 2000, the Commission released the *Fourth MO&O*, in which it recognized that “special circumstances” may warrant a waiver of the E911 Phase II requirements.<sup>14</sup> The Commission’s general waiver standards require a waiver proponent to show that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant would be in the public interest, or, in view of unique or unusual factual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>15</sup> With respect to waiver of the E911 Phase II requirements, the Commission required that waiver requests be “specific, focused and limited in scope, and with a clear path to full compliance,”<sup>16</sup> and that requesting carriers “should undertake concrete steps necessary to come as close as possible to full compliance . . . and should document their efforts aimed at compliance in support of any waiver requests.”<sup>17</sup> The requirement that carriers to present a “clear path to full compliance,” dictates that we grant relief only when sufficiently justified, and limit any extension of the handset penetration deadline to the shortest practicable time.<sup>18</sup> We otherwise continue to expect carriers to achieve full compliance with the E911 Phase II requirements as soon as possible.<sup>19</sup>

7. In its 2003 *Order to Stay*,<sup>20</sup> the Commission put carriers on notice that any claim based on factors beyond a carrier’s control would be credited only if the carrier submitted specific evidence substantiating the claim, *e.g.*, documentation that, despite a carrier’s good faith efforts to conclude agreements with outside sources whose equipment or services were necessary to meet the Commission’s benchmarks, it was unable to do so.<sup>21</sup> Carriers claiming that financial hardship prevented compliance with the December 31, 2005 95% penetration deadline were advised that a waiver was unwarranted unless the

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<sup>12</sup> See 47 C.F.R. § 20.18(g)(1).

<sup>13</sup> See 47 C.F.R. § 20.18(g)(1)(v).

<sup>14</sup> See Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442, 17457 ¶ 43 (2000) (*Fourth MO&O*).

<sup>15</sup> See 47 C.F.R. § 1.925(b)(3). See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *appeal after remand*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990); 47 C.F.R. § 1.3.

<sup>16</sup> *Fourth MO&O*, 15 FCC Rcd at 17458 ¶ 44.

<sup>17</sup> *Id.*

<sup>18</sup> See *Tier III Carriers Order*, 20 FCC Rcd at 7709-7710 ¶ 1; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14842-14843 ¶ 6.

<sup>19</sup> See *Fourth MO&O*, 15 FCC Rcd at 17458 ¶ 45.

<sup>20</sup> See Revision of the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems: E911 Compliance Deadlines For Non-Nationwide Tier III CMRS Carriers, CC Docket No. 94-102, *Order to Stay*, 18 FCC Rcd 20987 (2003).

<sup>21</sup> *Id.* at 20996-97 ¶ 25.

carrier provided sufficient and specific factual information,<sup>22</sup> and that a carrier seeking a waiver based on extraordinary financial hardship could strengthen its justification by submitting documentation demonstrating that it has used its best efforts to obtain financing for the required upgrades from available Federal, state, or local funding sources.<sup>23</sup> Finally, the Commission stated that it:

expects all carriers seeking relief to work with the state and local E911 coordinators and with all affected PSAPs in their service area, so that community expectations are consistent with a carrier's projected compliance deadlines. To the extent that a carrier can provide supporting evidence from the PSAPs or state or local E911 coordinators with whom the carrier is assiduously working to provide E911 services, this would provide evidence of its good faith in requesting relief.<sup>24</sup>

### C. Request and Comments

8. Centennial seeks relief from the requirement that it achieve 95% penetration of location-capable handsets among its subscribers by December 31, 2005, as required by Section 20.18(g)(1)(v) of the Commission's Rules.<sup>25</sup> Specifically, Centennial seeks to defer its obligation to comply with the handset penetration rule until December 31, 2006, with respect to its network in Puerto Rico.<sup>26</sup> Centennial explains that, although it initially deployed a network-based solution to effectuate E911 service on its CDMA network in Puerto Rico,<sup>27</sup> it has since initiated a complete upgrade of its system on the island.<sup>28</sup> As part of the upgrade, Centennial replaced its Lucent switches with Nortel switches, and thus "necessarily switched from a network- to a handset-based solution" for E911.<sup>29</sup> Centennial planned to complete testing on its handset-based system by November 30, 2005, and it expected the system to be operational "shortly thereafter."<sup>30</sup> Because of the implementation of this technology upgrade, Centennial states that it is unable to comply with the December 31, 2005 handset penetration deadline.<sup>31</sup> Centennial reports a penetration rate at or exceeding 79% as of the end of October 2005.<sup>32</sup> Centennial adds that it has been working cooperatively with the relevant PSAP – Junta de Gobierno del Servicio 911 – and that it has not indicated any objections to Centennial's proposal.<sup>33</sup>

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<sup>22</sup> See *id.* at 20997 ¶ 29. The Commission noted that it generally is disinclined to find that financial hardship alone is a sufficient reason for an extension of the E911 implementation deadlines. *Id.*

<sup>23</sup> See *id.*

<sup>24</sup> *Id.* at 20997 ¶ 28.

<sup>25</sup> 47 C.F.R. § 20.18(g)(1)(v). One of Centennial's subsidiaries, Centennial Puerto Rico License Corp., holds the B block broadband Personal Communications Services (PCS) license for MTA 25 – Puerto Rico/U.S. Virgin Islands. See Centennial Request at 2.

<sup>26</sup> See Centennial Request at 4.

<sup>27</sup> Centennial states that it implemented both Phase I and Phase II service using a network-based solution as of Aug. 3, 2005, consistent with the deployment schedule agreed upon with the PSAP for Puerto Rico. *Id.* at 2.

<sup>28</sup> See *id.* at 2.

<sup>29</sup> See *id.* at 2-3.

<sup>30</sup> See *id.* at 7.

<sup>31</sup> See *id.* at 3.

<sup>32</sup> See *id.*

<sup>33</sup> See *id.* at 3, 7.

9. Centennial notes that it requests an extension of one year and only with respect to Puerto Rico.<sup>34</sup> Centennial expects to reach 83% penetration by December 31, 2005 and “fully anticipates that it will reach or exceed 95% penetration no later than December 31, 2006.”<sup>35</sup> Centennial asserts that it has taken concrete steps toward a path to full compliance.<sup>36</sup> Centennial contends it has demonstrated its commitment to E911 by pursuing an aggressive schedule with its network vendor to complete system testing, as well as by encouraging handset replacement by selling only GPS-enabled handsets to subscribers, notifying non-compliant handset users of the “critical need to replace their handsets for E911 implementation,” and increasing its “line-up of available handsets from three or four available models to twelve compliant models, in order to make it more attractive for customers to replace their existing phones.”<sup>37</sup>

10. Centennial states that the relief from the handset penetration requirement it requests is consistent with applicable legal waiver standards, furthers the public interest, and advances the Commission’s E911 objectives by facilitating the transition to a handset-based solution, which it claims “will improve the accuracy with which first responders can locate and quickly reach cellular users in need of emergency assistance.”<sup>38</sup> Furthermore, because Centennial has committed to maintaining its network-based system until the proposed extended deadline, Centennial argues that its subscribers will continue to be served by E911 Phase II access during the network upgrade, ensuring the public interest will not be adversely impacted by a grant of the waiver.<sup>39</sup> Therefore, Centennial seeks to defer its obligation to comply with the 95% penetration rule with respect to its subscribers in Puerto Rico for one year, until December 31, 2006. The sole commenter in this proceeding, CTIA, filed comments in support of Centennial’s request.<sup>40</sup>

11. On April 13, 2006, Centennial submitted a written *ex parte* communication. In this filing, Centennial provided updated information with respect to its penetration levels. Specifically, Centennial reported that it had reached 91% as of December 31, 2005, and 93% as of April 13, 2006.<sup>41</sup>

### III. DISCUSSION

12. We believe that it was critical for all handset-based carriers to have met the final implementation deadline of December 31, 2005, for 95% location-capable handset penetration, if at all

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<sup>34</sup> See *id.* at 4.

<sup>35</sup> See *id.* at 5-6.

<sup>36</sup> See *id.* at 7.

<sup>37</sup> See *id.*

<sup>38</sup> See *id.* at 8.

<sup>39</sup> See *id.*

<sup>40</sup> See Comments of CTIA – The Wireless Association on Request of Centennial Communications Corp. for Limited Waiver/Extension of Location-Capable Handset Penetration Deadline, WT Docket No. 05-314 (filed Nov. 21, 2005) at 2. The Wireless Telecommunications Bureau sought comment on the Centennial Request by a Public Notice dated Nov. 7, 2005. See Wireless Telecommunications Bureau Requests Comment on Centennial Request for Limited Waiver/Extension of the December 31, 2005 Deadline to Achieve Ninety-Five Percent Penetration of Location Capable Handsets Among its Subscribers, WT Docket No. 05-314, *Public Notice*, 20 FCC Rcd 17902 (Wireless Tel. Bur. 2005). Comments were due by Nov. 21, 2005 and reply comments were due Dec. 1, 2005. CTIA – The Wireless Association (CTIA) filed comments fully supporting the Centennial Request; no other comments or reply comments were received.

<sup>41</sup> See Written *Ex Parte* Communication, WT Docket No. 05-314 (dated Apr. 13, 2006) (Centennial *Ex Parte*).

possible, in order to allow all stakeholders (including carriers, technology vendors, public safety entities, and consumers) to have greater certainty about when Phase II would be implemented and ensure that Phase II would be fully implemented as quickly as possible.<sup>42</sup> Absent Phase II location data, emergency call takers and responders must expend critical time and resources questioning wireless 911 callers to determine their location, and/or searching for those callers when the callers cannot provide this information.<sup>43</sup> Accordingly, when addressing requests for waiver of the 95% handset penetration deadline, we remain mindful that delay in achieving the required handset penetration level could impair the delivery of safety-of-life services to the public. At the same time, however, the Commission has recognized that requests for waiver of E911 requirements may be justified, but only if appropriately limited, properly supported, and consistent with established waiver standards.<sup>44</sup>

13. Consistent with these considerations, and for the reasons set forth below, we find that the waiver requested by Centennial does not meet the Commission's standard for relief from the E911 requirements. In light of the particular circumstances faced by Centennial and the penetration level Centennial reached by December 31, 2005, however, we will not at this time pursue enforcement action. We nevertheless impose reporting requirements to permit effective monitoring of Centennial's progress toward full compliance with the Commission's E911 requirements.

14. *Consideration of Waiver Criteria.* Under the circumstances of this case, we do not believe that Centennial has satisfied the Commission's E911 waiver standards. We first note that the results of Centennial's efforts as of December 31, 2005 fell short of the 95% penetration standard. Centennial indicates that it reached 79% penetration in October 2005, and 91% penetration by December 31, 2005.<sup>45</sup> It thus admittedly has failed to comply with the 95% penetration requirement. Although Centennial attributes its failure to meet the compliance deadline to its recent network upgrade and transition from a network-based solution to a handset-based solution,<sup>46</sup> Centennial was responsible for its choice of technologies, and thus should have made sure that its change in technology was implemented consistent with all applicable E911 obligations, including the December 31, 2005 deadline.<sup>47</sup> Furthermore, while Centennial represents that it has undertaken efforts to encourage customers to upgrade to location-capable handsets, it offers few specifics other than it has "taken action" to notify its subscribers of the need to upgrade and increased the number of available handsets with location capability.<sup>48</sup> Centennial does not, for example, state whether it offered free or reduced-price location-capable phones as an inducement to its subscribers to upgrade non-location capable handsets, or eliminated any requirement that such customers

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<sup>42</sup> See *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14853 ¶ 38.

<sup>43</sup> Phase I E911 service provides a PSAP with data elements containing the telephone number of the originator of the 911 call and the location of the cell site or base station receiving the 911 call. See 47 C.F.R. § 20.18(d). Thus, the actual location of the caller can be miles distant from the location information provided to the PSAP, with consequent delay in providing the caller with emergency services, assuming that the caller can actually be located. Phase II service, by comparison, has a required location accuracy of 100 meters for 67% of calls and 300 meters for 95% of calls (for a network-based location solution) or 50 meters for 67% of calls and 150 meters for 95% of calls (for a handset-based location solution). See 47 C.F.R. § 20.18(h)(1), (2). See also *supra* ¶ 4.

<sup>44</sup> See *Tier III Carriers Order*, 20 FCC Rcd at 7709-10 ¶ 1; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14842-43 ¶ 6.

<sup>45</sup> Centennial Request at 3, 5-6; Centennial *Ex Parte* at 1.

<sup>46</sup> See Centennial Request at 2-3, 7.

<sup>47</sup> We do not address here circumstances in which a carrier changes its Phase II location technology following the December 31, 2005 95% penetration deadline.

<sup>48</sup> See Centennial Request at 7-8.

accept as a condition of receipt of compliant phones a renewed or extended service contract, which would likely have improved the effectiveness of such efforts. Centennial also admits that only a small percentage of subscribers with non-compliant handsets have responded to its efforts by replacing their handsets.<sup>49</sup> Accordingly, Centennial knew or should have known, prior to the December 31, 2005 deadline, that its efforts were proving inadequate for achieving timely compliance. In addition, if Centennial found its subscribers resistant to adopting location-capable handsets,<sup>50</sup> it should have taken earlier and more aggressive steps to increase penetration levels to ensure compliance by the December 31, 2005 deadline.<sup>51</sup>

15. We note that other carriers already have undertaken or committed to specific efforts beyond those described by Centennial. For example, Verizon Wireless Puerto Rico (VzWPR), a Tier III carrier also serving Puerto Rico, initiated a campaign to call all customers with non-GPS-capable handsets and offer them: (i) a choice between two free GPS-compliant handsets with the renewal of the customer's contract; (ii) a one-year contract term, rather than the usual two years; and (iii) 100 free minutes per month for three months.<sup>52</sup> As a result of these measures, VzWPR states that it reached 95% penetration of GPS-capable handsets on Dec. 19, 2005, and is now in full compliance with Section 20.18(g)(1)(v) of the Commission's rules.<sup>53</sup> In another instance, Great Lakes of Iowa, another Tier III carrier, stated in a pleading filed with the Commission that, as part of its efforts to achieve 95% penetration, it "called each TDMA and analog customer and, as an incentive to migrate to the CDMA network, offered them a free location capable phone and a month of free service if they upgraded their phones," and also "offered to waive its two year contract term, allowing these customers to upgrade to a free phone before their contracts would normally award another free phone."<sup>54</sup> Although not exhaustive, these examples illustrate more aggressive efforts that Centennial could have taken to ensure timely compliance with the 95% requirement. Moreover, these efforts were undertaken by Tier III carriers that also serve many rural or remote areas and have smaller customer bases than Centennial, a Tier II carrier.<sup>55</sup>

16. As discussed above, under the Commission's E911 waiver criteria, the party seeking a waiver must demonstrate that its request is "limited in scope."<sup>56</sup> Centennial, however, has requested a full year extension without explaining why such a lengthy period is required. Its request for a full year is particularly difficult to accept in light of its reported increases in penetration levels since its filing,<sup>57</sup> which

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<sup>49</sup> See *id.* at 6 (describing how notifications to subscribers using a particular non-compliant model resulted in only 300 handset replacements out of 1,500 affected customers).

<sup>50</sup> See *id.*

<sup>51</sup> Cf. Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Request for Waiver by Verizon Wireless, *Order*, CC Docket No. 94-102, 16 FCC Rcd 18364, 18371 ¶ 20 (2001) (*Verizon Order*) (noting "had Verizon more timely selected a handset approach, it might have been able to meet a more aggressive handset deployment schedule than that it ultimately proposed").

<sup>52</sup> See Letter from Suzanne Yelen, counsel for Verizon Wireless Puerto Rico, to Marlene H. Dortch, FCC, CC Docket No. 94-102 (requesting withdrawal of request for limited waiver of handset penetration rule).

<sup>53</sup> *Id.*

<sup>54</sup> See Great Lakes of Iowa, Inc. d/b/a CellularOne Petition for Temporary and Limited Waiver of Section 20.18(g)(1)(v) of the Commission's Rules, CC Docket No. 94-102, filed Nov. 10, 2005, at 2-3.

<sup>55</sup> We also note that carriers have a history of upgrading their networks to more advanced air interfaces, such as from analog and TDMA systems to CDMA and GSM, and have been quite successful in convincing customers to change handsets to accommodate the new air interface, effectively requiring current customers to change out their handsets in order to continue receiving service.

<sup>56</sup> See *supra* ¶ 6.

<sup>57</sup> See *supra* ¶ 8.

suggest that it can reach compliance more quickly. Moreover, we do not perceive a “clear path to full compliance” in Centennial’s waiver request because there is nothing in the record that allows us to reconcile the length of the requested extension with Centennial’s obligation to come into compliance as soon as possible.

17. In prior circumstances where the Commission granted relief from certain E911 requirements, the Commission maintained the ultimate December 31, 2005 compliance date for 95% handset penetration.<sup>58</sup> In light of the increasing number of 911 calls placed by wireless phones, it has become even more imperative as a matter of public safety and homeland security to continue to ensure adherence to the December 31, 2005 deadline. Furthermore, all carriers have been aware of the December 31, 2005 deadline for over five years,<sup>59</sup> and thus have been well on notice of the need to timely comply notwithstanding subsequent decisions to change network technologies. For these reasons, although Centennial had its reasons for converting its subscribers to a handset-based Phase II network, Centennial’s decision to change the E911 location technology in Puerto Rico cannot justify its non-compliance with the 95% requirement.

18. We acknowledge Centennial’s claim that it has worked cooperatively with the PSAP in Puerto Rico,<sup>60</sup> that it reached a handset penetration level of 91% by December 31, 2005, and that the relief it seeks is limited in scope as it pertains only to its Puerto Rico system. We also note that Centennial has pledged to continue operating its network-based system until the proposed December 31, 2006 deadline, thus ensuring continued provision of E911 Phase II service to all its subscribers during the transition to a handset-based E911 solution.<sup>61</sup> Although those factors do not overcome our determination that Centennial has failed to meet the criteria for a waiver, they do suggest that it is not necessary at this time to pursue enforcement action, a decision we may revisit if Centennial does not come into compliance as soon as possible.

19. *Reporting Requirements.* In order to closely monitor and assess the status of Centennial’s efforts toward compliance with the E911 requirements, we require Centennial to:

- Submit to the Commission status reports on the first of every month, beginning February 1, 2007, until Centennial achieves 95% handset penetration. These reports must include detailed information that describes and discusses with specificity: (1) Centennial’s efforts to encourage customers in Puerto Rico to upgrade to location-capable handsets; and (2) the percentage of Centennial’s customers in Puerto Rico with location-capable handsets.

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<sup>58</sup> See *Verizon Order*, 16 FCC Rcd at 18378 ¶ 37; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14841 ¶ 1 (“[w]e will continue to insist on the ultimate implementation date of December 31, 2005”). While the Commission has granted limited extensions of the 95% handset penetration deadline to certain Tier III carriers, this relief was based on the circumstances faced particularly by smaller, Tier III carriers, and pursuant to the ENHANCE 911 Act, which applies only to Tier III carriers. See *Tier III Carriers Order*; Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, GTE Pacifica, Inc. d/b/a Verizon Pacifica Request for Waiver, CC Docket No. 94-102, *Order*, 21 FCC Rcd 3770 (2006); Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Copper Valley Wireless, Inc. Petition for Waiver or Temporary Stay, CC Docket No. 94-102, *Order*, 21 FCC Rcd 3778 (2006).

<sup>59</sup> See *Fourth MO&O*, 15 FCC Rcd at 17455-56 ¶¶ 36-37.

<sup>60</sup> See Centennial Request at 3, 7.

<sup>61</sup> See *id.* at 3, 8.



- Within five days of achieving a 95% handset penetration rate in Puerto Rico, submit to the Commission a letter certifying Centennial's full compliance with Section 20.18(g)(1)(v).
- Submit to the Commission quarterly reports (every February 1, May 1, August 1 and November 1), beginning February 1, 2007, which shall include the following information: (1) the number and status of Phase II requests from PSAPs (including those requests it may consider invalid); and (2) the estimated dates on which Phase II service will be available to PSAPs served by Centennial's network. These quarterly reports must be filed until one year after Centennial certifies compliance with the 95% handset penetration requirement.

#### IV. CONCLUSION

20. Under the circumstances of this case, we find that Centennial has failed to satisfy the Commission's waiver standards. For these reasons, we deny Centennial's request to extend the handset penetration deadline. In light of the particular circumstances faced by Centennial, it is not necessary at this time to pursue enforcement action to bring Centennial into compliance with Section 20.18(g)(1)(v). We impose reporting requirements to ensure that Centennial achieves full compliance with the Commission's E911 requirements.

#### V. PAPERWORK REDUCTION ACT

21. This document contains a new information collection requirement subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other federal agencies were invited to comment on the new information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

#### VI. ORDERING CLAUSES

22. Accordingly, IT IS ORDERED pursuant to Sections 1.3 and 1.925 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.925, that the foregoing *Order* IS ADOPTED.

23. IT IS FURTHER ORDERED that the Request of Centennial Communications Corp. for Limited Waiver/Extension of Location-Capable Handset Penetration Deadline IS DENIED.

24. IT IS FURTHER ORDERED that Centennial is subject to the reporting requirements specified herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary